STANDING COMMITTEE ON AGRICULTURE

REPORT ON FARM LAND OWNERSHIP

June 21, 2002

3rd SESSION of the 24th LEGISLATURE

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN

Legislative Assembly of Saskatchewan
Standing Committee on Agriculture

239 Legislative Building
Regina, Saskatchewan
S4S 0B3
Tel (306) 787-2279
Fax (306) 787-0408

June 21, 2002

To the Honourable Members of the Legislative Assembly

HONOURABLE MEMBERS:

Your Standing Committee on Agriculture has the honour to present its report regarding the agricultural land holding provisions as set out in *The Saskatchewan Farm Security Act*, and commends it to the House.

Ron Harper, Chair
MLA, Regina Northeast

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The Committee also wishes to extend its appreciation to all the individuals and groups who made oral presentations and submitted written briefs. Additionally the Committee expresses its thanks to Professor Hartley Furtan and Professor Richard Gray, of the Department of Agricultural Economics, University of Saskatchewan, who accepted the Committee's invitation to appear as expert witnesses. The information presented and the opinions expressed were of valuable assistance in reviewing the agricultural land holding provisions as set out in *The Farm Land Security Act*.

COMPOSITION OF THE COMMITTEE

Chair:	Ron Harper	MLA Regina Northeast
Vice-Chair:	Donna Harpauer	MLA Watrous
Other members:	Pat Atkinson	MLA Saskatoon Nutana
	Bob Bjornerud	MLA Saltcoats
	Wayne Elhard	MLA Cypress Hills
	David Forbes	MLA Saskatoon Idylwyld
	Carolyn Jones	MLA Saskatoon Meewasin
	Hon. Ron Osika	MLA Melville
	Randy Weekes	MLA Redberry Lake

Members substituting for permanent members of the Committee on an occasional basis:

Pat Lorjé, MLA Saskatoon Southeast
Jim Melenchuk, MLA Saskatoon Northwest
Peter Prebble, MLA Saskatoon Greystone
Harry Van Mulligen, MLA Regina Victoria
Milton Wakefield, MLA Lloydminster
Mark Wartman, MLA Regina Qu'Appelle Valley

STAFF

Mr. Viktor Kaczkowski, Clerk Assistant (Committees)
Mr. Avrum Fenson, Researcher to the Committee
Ms. Sandra Gardner, Supervisor of Assembly Services

ORDER OF REFERENCE

On April 12, 2002, the Standing Committee on Agriculture, on motion of the Hon. Clay Serby, Minister of Agriculture, Food, and Rural Revitalization, seconded by Ms. Donna Harpauer, MLA, Watrous, received its Order of Reference, which, reads as follows:

> *Ordered, That the Standing Committee on Agriculture be authorized as follows:*
>
> *To examine and make recommendations to the Assembly with respect to the agricultural land holding provisions as set out in The Saskatchewan Farm Security Act, and;*
>
> *that, for the purposes of this examination, the said Standing Committee shall have the authority to engage such advisors and assistants as are required and, in accordance with the provisions set out in Rule 94(4), permit membership on the Committee to be transferable.*

METHOD OF OPERATION

On April 17 and 24, 2002, the Committee met to determine how the Committee should proceed with its consideration of its Order of Reference. Due to membership changes on the Committee, however, the Committee's first had to elect a Chair and a Vice-Chair. Accordingly, Ron Harper, MLA Regina Northeast, was elected to serve as Chair and Donna Harpauer, MLA, Watrous, Vice-Chair. A Sub-committee on Agenda and Procedure (Steering Committee) was appointed, consisting of the Chair, the Vice-Chair and Pat Atkinson, MLA Saskatoon Nutana.

The Committee then received and adopted the Report of the Steering Committee which recommended that public hearings be held on May 15, 16, 22 & 23 at the Legislative Building in Regina and that members of the public be invited to make their views to the Committee known, either orally or in writing, or both. To this end, it was agreed that advertisements giving notice of the Committee's proceedings were to be placed in all of the daily and weekly newspapers in Saskatchewan, on the Saskatchewan Parliamentary Channel, and on the Legislative Assembly's website. Instruction was also given that notice be sent to key stakeholder groups, including agricultural organizations and rural municipalities.

A list of all witnesses making presentation is provided in Appendix 1 while Appendix 2 contains a list of all the written documents received by the Committee.

INTRODUCTION

The mandate of the Committee is to "examine and to make recommendations to the Assembly with respect to the agricultural land holding provisions as set out in *The Saskatchewan Farm Security Act*". A companion mandate – to receive a representation from the Action Committee on the Rural Economy regarding its Final Report – is not dealt with in this Report. However, the release of ACRE's Final Report just before the Committee began its hearings on agricultural landholding inevitably encouraged witnesses during their presentations, and the Committee during its deliberations, to consider broader issues facing agriculture, and to identify widely-held hopes and fears concerning the future of agriculture in Saskatchewan.

Historical reasons contribute to the breadth of anxiety concerning Saskatchewan agriculture that witnesses expressed during the hearings. For example, the loss of rail lines and of the Crow Rates, and the consolidation of elevators and grain handling points (with roads inadequate to the new demands on them that followed), are not new circumstances, and were not unique to Saskatchewan; but for some witnesses they were evidence that Saskatchewan's agriculture has been besieged for some time. (In fact, Saskatchewan's less-diversified agriculture was probably more sensitive to the historic changes in grain transport.)

Thus, despite the tight focus of the Committee's mandate – which is reflected in its recommendations – the Committee was not allowed to forget the expectations of witnesses who wanted solutions that would have a broad positive effect on issues such as investment in Saskatchewan, viability of farm communities, demographics of rural Saskatchewan, the welfare of retiring, current and prospective farmers, and other matters.

Some witnesses argued just as firmly that amendments to the land ownership rules would have equally broad negative effect. Yet others told the Committee that there was no evidence to support any expectation that amending the land ownership rules would matter at all.

What virtually all the witnesses shared to a greater or lesser extent was the view that the non-resident land ownership issue was at most a part of the whole picture. Most found it difficult to discuss land ownership in isolation – the need for an overall agricultural/rural revitalization strategy was a constant unspoken theme.

While the Report presents, in paraphrase, many of the opinions expressed by witnesses, it is not meant to be a record of their words – for that, recourse must be had to *Hansard* and to the briefs brought to the hearings or sent to the Committee. Nor should it be taken as a tally of the opinions expressed, or as criticism or endorsement of any particular opinion expressed, whether the opinion is referred to in the Report or not. It may be said, however, that groups and businesses were more likely to approve the idea of amendments, while individual farmers and farm families who appeared were more apt to see reason for anxiety in some of the changes being discussed.

The Committee members came to the Hearings with a variety of views as to how problems in agriculture should be addressed, but they all shared certain key concerns:

- That residence in the province had to be encouraged.

- That land tenure should address quality-of-life issues – enhancement of the social fabric and of infrastructure.

- That the status quo was not working.

By the end of their deliberations, the Committee had heard or formed some other general views which likewise contributed to (but did not rigidly determine) their formal recommendations:

- It is important to link job creation and economic development strategies to acquisition of agricultural lands.

- Land should not be left idle.

- Environmental and conservation issues must be addressed.

- There may be good reason to align Saskatchewan's land ownership rules with those of neighbouring or other provinces.

- An overall strategy must address Saskatchewan's hopes for increased investment and rural repopulation.

- An overall strategy must address Saskatchewan's fears of further decline of the family farm, loss of control of its land, and disappearance of a new generation of farmers; it must also address Saskatchewan's fear of missing an economic opportunity if nothing is done.

- Diversification of the agricultural industry needs to be part of the strategy.

- Legislation, policy and administrative practice must facilitate – at the same time that it regulates – the path of foreigners and their capital to Saskatchewan agriculture.

GENERAL ISSUES RAISED DURING THE HEARINGS

Opinions about the purpose of the 1974 statute

Witnesses presented a variety of views as to what ends the 1974 and later land ownership provisions were meant to accomplish, and what goals new amendments should address.

Witnesses said that they perceived the 1974 legislation to have been meant to:

- help and support young farmers and to ensure the stability of agriculture (Saskatchewan Real Estate Association);

- give Saskatchewan people an advantage in buying farm land, and to stop the exodus of farmers (Hartley Furtan);

- ensure that ownership remained accessible to Saskatchewan residents (Prairie Alliance for the Future); or

- preserve the family farm by helping keep land ownership in the hands of Saskatchewan residents: a goal in line with the views of the participants in the debate in the early 1970s – for the most part members of the pioneer generation (or their children) who had a negative historical memory of absentee landlords. Restricting non-resident ownership made emotional sense, and seemed to make economic sense, in the economic circumstances of agriculture at the time, but it has an economically discouraging effect today (Ken Ziegler).

Opinions about amending the statute now

One witness commented upon why the prospect of changes to the rules was less contentious an issue than it might have been at one time. The original statute was a response to farmers' lobbying: they wanted to capture the rise in farm prices and to get rid of competition. Now, with no high prices to capture, people are more sanguine about possible changes to legislation. The same pattern can be seen in American law. In 1974 the greed element wanted restriction. Now the greed element wants liberalization (Hartley Furtan).

If the purpose of the restrictions was to stem the exodus from Saskatchewan, said the Prairie Centre Policy Institute, it hasn't worked. Removing the restrictions may help solve the demographic problem.

The Chair of the Farm Land Security Board told the Committee that the objective in the 1974 statute had not been to give Saskatchewan people an advantage in buying farm land and to stop the exodus of farmers, but rather to recognize that farm land was a provincial asset. Other witnesses agreed that one aspect of the legislation was to recognize the fact that land is one of Saskatchewan's greatest resources, but maintained that the intention was also to ensure that it be owned by residents – a valid goal today (Paul Gaucher).

Witnesses suggested that today's goals should include (i) limiting the amount of land that is taken out of sustainable agricultural production, and (ii) broadening Saskatchewan's tax base (Saskatchewan Stock Growers Association); or (iii) encouraging outside investment that will stimulate growth in the province (Prairie Centre Policy Institute).

Varying views of effect of land-ownership legislation

Almost no witnesses believed that amended land-ownership rules alone could do much for the state of agriculture, agribusiness and rural life in Saskatchewan. It would be a small component of all that needs to be done (Saskatchewan Association of Rural Municipalities; Joe Saxinger); or, as the Saskatchewan Stock Growers Association said: It's not the only card that needs to be

played, but let's start the game. Professors Gray and Furtan said that opening the door further to other Canadians wouldn't hurt, but by the same token would not accomplish much.

Witnesses who were otherwise well disposed towards changes in land-ownership rules pointed out that such changes did not address problems such as

- the increasingly disproportionate burden of school taxes borne by rural landowners ;
- the removal of land out of agricultural use by conservation groups;
- high taxes;
- non-deductibility of principal payment for land and house;
- absence of innovation and value-added industries;
- outdated transportation and marketing systems; and
- other countries' subsidies for their farmers.

Some witnesses questioned the efficacy of such legislation even in the areas it is meant to address. Professor Furtan said that a study he conducted of farms contiguous to both sides of the Alberta-Saskatchewan and the Saskatchewan-Manitoba borders showed that the 1974 statute did not slow the exodus of farmers in Saskatchewan. Its rate was twice the rate of its neighbours' farm exodus. The real motors of regional growth, he said, are (i) increased exports and (ii) the conglomerate effect – investment going where investment is already present.

Professor Gray and the Farm Land Security Board told the Committee that amending the law wouldn't address low farm population; the Prairie Centre Policy Institute and others said that the 1997 change in Manitoba's rules appears to have had no effect on land prices or on patterns of purchase. Prairie Alliance for the Future and Professor Furtan said that there appears to be no evidence that loosening restrictions is associated with elevated land prices. In all events, the problem driving farmers from the land, or keeping them from coming onto the land, is low commodity prices, not farm land values (Plains Agricultural Services; Pro West Rally Group; Saskatchewan Young Farmer's Forum).

Rural depopulation

Rural depopulation was a common theme during the hearings. It is not a new phenomenon, and not unique to Saskatchewan, or to Canada. The Western Canadian Wheat Growers Association said that the trend to fewer and larger farms has been with us for 60 years, with farmers pulling up the stakes regardless of boom or bust. Nevertheless, it appeared to some witnesses to be a signal of economic weakness in rural Saskatchewan, or as a challenge to the viability of rural communities.

Some witnesses argued that loosening the rules on farm land ownership would exacerbate the problem by replacing yet more of the rural population with a virtual population of absentee landlords. The Committee heard that loosening the rules invited capital, not people (Lon Borgerson & Val Drummond); and would create an advantage in land acquisition for out-of-province capital over young Saskatchewan farmers who do not have easy access to funds, thus putting an end to the family farm (National Farmers Union). Non-resident land ownership and the trend to larger farms means depopulation, undermines community life, diverts tax payments outside the province, and usually ends in the money being taken elsewhere to chase other investments (National Farmers Union).

Others, in favour of loosening the rules, said that importing capital in that way would create opportunities for young farmers to enter the agricultural life on leased land, a common entry point, and long part of Saskatchewan's farm economy (Prairie Centre Policy Institute). The Saskatchewan Stock Growers Association observed that people living in Saskatchewan would work the land, however owned. The opportunity to invest, said the Saskatchewan Real Estate Association, could result in some of the investors and their families following their money to Saskatchewan. Consolidation of grain farms by in-province and out-of-province purchasers would not lead to depopulation (Richard Gray). One witness argued that Saskatchewan should take advantage of the fact that there are prospective European investors who are experienced with bureaucracy and used to high land prices (Lane Realty Corporation). Professors Gray and Furtan said that while it makes sense to loosen rules for other Canadians, Europe is more likely to be a source of people and investment.

Intergenerational transfer of the family farm

Another line of argument focussed on the issue of intergenerational transfer of land within Saskatchewan. Some witnesses expected (or hoped) that opening the market would reverse the slow decline in Saskatchewan farm land prices. Of these, some welcomed the active farmer's increased opportunity to borrow funds, and the retiring farmer's enhanced retirement nest-egg (Pro West Rally Group; Prairie Centre Policy Institute; Saskatchewan Real Estate Association) while others worried about the beginning farmer's being priced out of the opportunity to buy the family farm from retiring parents.

The Prairie Centre Policy Institute told the Committee that the present rules constitute a subsidy of intergenerational transfer of land within Saskatchewan families. If this is good policy, let it be publicly funded, and not supported by the blunt instrument of artificially depressed land values.

Perceptions of Saskatchewan's view of business, and vice versa

Many witnesses made clear to the Committee that part of the real problem of Agriculture in Saskatchewan derived from perceptions about that province that were not always in accord with reality.

Witnesses – some for and some against loosening restrictions on farm land ownership – agreed that whatever the law said, and however liberal the practice of the Farm Land Security Board in fact was, it was too easy for prospective agricultural immigrants or investors to garner the impression that Saskatchewan did not welcome and smooth the way for them or their money.

Someone looking at the Act now would not find it welcoming, and could not, by reading it, deduce the fact that most applications to the Farm Land Security Board for exemptions are granted. The law doesn't encourage people to move; a high barrier, or the perception of one, will stop people from considering a move (Richard Gray). According to some witnesses, there are no real restrictions in that anyone who moves or intends to move to Saskatchewan is in fact free to buy (Saskatchewan Association of Rural Municipalities; Paul Gaucher; Prairie Alliance for the Future). All that is needed is to make that fact known in the statute itself.

The statute gives no indication of the criteria the Board should apply in entertaining applications for exemptions; the Board has been required to develop its policies without any guidance from the statute, and with little from the government. Even if the Act were changed only to the extent of articulating the Board's present practice, a prospective immigrant would see that time is liberally given to meet the residence requirements; a prospective investor could see the weight given prospective economic benefits for Saskatchewan when application is made for exemptions. Thus, some witnesses argued, without creating any new grounds for exemptions, Saskatchewan could signal and publicize the openness that is already there but which is discouragingly invisible in the statute. As Joe Saxinger told the Committee, rules act as a bad business signal to potential outside investors; thus, perception probably prevents non-Saskatchewan investors from getting the exemptions that are in practice available.

Other suggestions included giving the Board an educative mandate; devising more inviting language for the statute whatever the substantive changes; and having the province engage in more aggressive and effective publicity and marketing to attract immigrants and/or investors.

Witnesses who supported the loosening of restrictions frequently said that their reason for doing so was to counter the perception of Saskatchewan as inhospitable to investment, over-regulated, and fearful of business and of corporations. Some examples:

- The present law creates an atmosphere that is not conducive to investment. There is no lively market in land, and there is a reduced ability to raise capital on the land. It is hard to attract out-of-province funds. Those investors who consider investing anticipate regulatory hurdles and end up looking elsewhere. Mortgage brokers won't bother trying to find investment money from outside the province. The regulatory hurdles are not impossibly high, but the perception is that it is not worth the trouble trying to jump them (Prairie Centre Policy Institute).

- What discourages outside investors includes taxes, the prospect of giving up US citizenship, and Saskatchewan's road policy (Lane Realty Corporation).

- Agri-businesses report that provincial regulations and red tape have even greater negative impact than federal regulations and red tape (Canadian Federation of Independent Business).

Others among these witnesses told the Committee that some of the fear of business and corporations which Saskatchewan projected was wrongheaded anyway:

- The corporate model has not taken over agriculture anywhere, and won't do so here, with or without this statute. Except in the context of a value-added enterprise, corporations don't regard farm land as an investment. Lowering the barrier for corporations interested in intensive livestock operations may bear fruit; in such operations, weather's effect can be discounted and the owners can evaluate employee and management input, which is what they are used to doing (Richard Gray).

- The fear of speculators and absentee landlords is misconceived as well: the 1997 change in Manitoba's rules has not made the province their prey (Saskatchewan Real Estate Association).

- Don't worry about a rush of out-of-province corporate purchasers – Saskatchewan's high corporate tax rate will make sure that doesn't happen (Canadian Federation of Independent Business).

- Don't worry about opening the floodgates to corporations – they are too smart to go farming (Lane Realty Corporation).

- The corporate ownership to be feared is not the large corporate-owned grain farm, but vertical integration (Farm Land Security Board).

As for the existence of regulation, the Canadian Federation of Independent Business recommended that Saskatchewan establish a Regulation and Red Tape Commission as Nova Scotia, New Brunswick and Ontario have done. (The Committee observes that under the Government's 1996 Partnership for Growth initiative, a 10-year review of all provincial regulations was planned, with a view to eliminating many of them; as of 2000, the number of regulations had been reduced by 22%). On the other hand, the Farm Land Security Board observed that serious investors are not put off by regulation. If they were, there would be no hog farming in Canada.

The Farm Land Security Board's need for clear government policy and direction

In the section on perceptions of Saskatchewan's openness to people and capital from outside, it was observed that the statutory provisions under review understated the opportunities for people who intend to move to the province to buy land. The statute gives the Farm Land Security Board a general discretionary power, but no mandatory or permissive lists of factors to consider in making its various decisions. The Board has had to develop its practices without assistance from the statute, and furthermore, without clear policy direction from the government. (As has been

noted above, this circumstance has also left the prospective investor unable to determine easily the conditions under which an exemption is available – possibly discouraging further inquiry.)

The Board told the Committee that it would welcome guidelines, or the guidance of a purpose clause. It has observed that Part VI of the Act would not inspire a reader to want to move to Saskatchewan. Nor does it assist the Board in developing, for example, distinct policies concerning attached acreage for intensive hog operations on the one hand and beef feedlots on the other.

The most pressing need for policy development by the government, and for clear directions to the Board in the statute, would appear to be in the Board's difficult task of balancing the competing claims of agriculture and conservation. Ducks Unlimited Canada asked to be exempted from the statute altogether, arguing that it was time to stop regarding conservation as a *prima facie* assault on agriculture. On the other hand, the Committee heard witnesses blaming conservation lands for the loss of drinking water for livestock, the spread of crop-damaging insects and animals, fire risk from dead growth left uncleared or unploughed, and the transformation of entire rural neighbourhoods into under-populated, thinly-farmed areas.

The Board chooses to exercise its discretion by filtering out passive investment in land. It routinely gives exemptions allowing applicants 5 years to resettle, and recently aligned its practice in this regard with the Saskatchewan Immigrant Nominee Program. It granted exemptions to an overwhelming majority of all applicants in 2000-01. The 2000-01 exemptions involved 124,000 acres (which constitutes about 1/5 of 1% of Saskatchewan's 64 million acres of farm land).

The Committee was impressed by the need for the government to clarify its policies – a clarity (i) required by the Board, and (ii) needed to help dispel the cloud of doubt that discourages outside individuals and capital from migrating to Saskatchewan agriculture.

NAFTA issues

Chapter 11 of the North American Free Trade Agreement deals with investment. Article 1102 requires each party to the agreement (e.g., Canada) to accord another party's (e.g., American or Mexican) investors and their investments treatment "no less favorable than that it accords, in like circumstances, to its own investors" and "to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments".

This would mean, in the case of Saskatchewan's farm land ownership legislation, that Saskatchewan could not accord American or Mexican investors "treatment less favorable than the most favorable treatment accorded, in like circumstances . . . to investors, and to investments of investors, of the Party of which it forms a part" – namely, Canadian investors and their investments.

However, the parties agreed to blanket reservations for (in Canada's case) "all existing non-conforming measures of all provinces and territories". Article 1108 provides that the reservation survives any tinkering with the statute or regulation that does not change the measure itself. Article 1108 also preserves the reserved status of a non-conforming measure when it is amended – so long as the amendment does not increase its non-conformity with NAFTA.

The Committee wanted to assure itself that loosening restrictions for Canadians – while at the same time either (i) not changing restrictions for foreigners or, alternatively, (ii) loosening restrictions for foreigners but to a lesser extent than restrictions are amended for Canadians – would not expose Saskatchewan to the risk of being barred some time in the future from maintaining any distinction between its treatment of Canadians and its treatment of foreigners with regard to ownership of farm land.

The National Farmers Union advised the Committee not to open Pandora's box and expose Saskatchewan to a NAFTA challenge.

The advice the Committee was able to obtain suggests that the risk of an attack by one of the parties (the United States or Mexico) was possible; and that there was no certainty that a large American corporation might not seek to impugn – either under NAFTA or in another forum – a limit on its right to buy farm land.

For that reason, the Committee has, within one of its recommendations, recommended that the government assure itself on the subject of NAFTA before making amendments to Part VI of *The Saskatchewan Farm Security Act*.

THE FARM LAND OWNERSHIP RULES

Specific witness recommendations:

a. Maintain some form of restriction

The Farm Land Security Board advised that the Committee consider more than band-aid amendments – that it redo all of Part VI and add a purpose clause. Perhaps Part VI should be re-enacted as a separate statute. Prairie Alliance for the Future expressed its fear that any amendments at all might lead to financial institutions which have acquired farm land through foreclosure being able to sell farm land to non-farm investors.

Farmers need government support – not increased competition with outside capital for farm land – until trade distortions and the resulting problem of diminished and volatile prices are smoothed out, says the National Farmers Union. Instead of loosening the rules, do something to encourage people in and outside Saskatchewan to live and farm in Saskatchewan. Consider requiring Saskatchewan partnership in out-of-province purchases of more than 30 acres. Eliminating non-resident ownership restrictions will result in the spread of hog barns across the landscape; and will turn prospective Saskatchewan farmers into prospective low-income hog barn employees.

Maintain restrictions in some form. For example, require that owners of more than 320 acres (or a higher threshold) of farm land must derive at least half their income from the land (or live in Saskatchewan at least half the year) (Pro West Rally Group).

Retain sections 84 and 91 of the Act – restrictions on non-agricultural corporation ownership, with the possibility of exemptions in the right circumstances. Saskatchewan needs greater protection from non-agricultural corporations' acquisition of land than is now being given. Ducks Unlimited Canada is the case in point. It has the aim of taking as much as 2.8 million acres of Saskatchewan land out of production (about 4.4% of Saskatchewan's 64 million acres of farm land). Their management of land causes fire hazards, and the spreading of weeds and undesirable wildlife. They remove land from the local economy – from small businesses that serve farmers. They compete with farmers for land using untaxed dollars. The depopulating effect of cropland idling is six times the depopulating effect of converting cropland to pasture (Meacham Hills Forage Club).

b. Loosen restrictions

Opening the door further to other Canadians won't do much, but it won't hurt. The likely source of people and capital is Europe (Richard Gray; Hartley Furtan). Amend the Act to reflect the Board's present relaxed policy. Tie the admission of foreigners to job creation (Richard Gray). Tie ownership to a specific project (Farm Land Security Board).

Allow any Canadian to own land (Saskatchewan Stock Growers Association). Level the playing field – open up to the same extent as the neighbouring provinces for individuals and for corporations (Canadian Federation of Independent Business). Increase the threshold from 320 acres to 1 section. This would give prospective Canadian investors the option of economy of scale, and would do much to attract people to Saskatchewan (Lane Realty Corporation). Allow other Canadian individuals to purchase land freely; let the Board continue with careful review of corporate and foreign individuals' applications. Beef up the Board's livestock expertise, and set out clear exemptions for job production and other real economic benefit to the province (Prairie Centre Policy Institute).

Agriculture in Saskatchewan is in serious trouble. The province can't fund it indefinitely. Loosen ownership restrictions to allow investment to enter the province and support agriculture (Ross Pollock). Why attempt to legislate the perfect price of farm land? You don't do that for Regina real estate (Plains Agricultural Services).

Bring the land ownership rules in line with those of the neighbouring provinces (Prairie Centre Policy Institute; Saskatchewan Real Estate Association; Western Canadian Wheat Growers Association).

c. Other witness suggestions

The Saskatchewan Association of Rural Municipalities said that its members had so far been unable to reach a position on changing the ownership rules; it recommended tabling a draft bill for comment, and asked what the rush was. The Pro West Rally Group recommended that a referendum be held on the issue among rural residents and/or landowners. Lon Borgerson

advised the Committee not to make a hasty decision during seeding time, and out of the context of a larger policy; this would make it impossible to achieve a made-in-Saskatchewan agricultural policy for the province.

The Committee's recommendations

The Committee has decided to recommend collapsing the distinctions made in the present statute (i) between Saskatchewan residents and other Canadians, and (ii) between Saskatchewan agricultural corporations and other Canadian corporations acquiring land for agricultural or related value-added activity.

Evidence was heard about the symbolic effect of Saskatchewan's farm land ownership rules, as were suggestions calling upon Saskatchewan to bring its taxation levels, density of bureaucracy, and ownership rules in line with those of Manitoba and Alberta. Evidence was heard that opening land purchases to other Canadians would not have results so dramatic that Saskatchewan could ignore other possible sources of incoming farmers and their capital; but the Committee came to the view that the difference between Saskatchewan and its neighbours in respect of Canadian land purchases was too vivid a signal – even if it was a false one – of Saskatchewan's grudging welcome to people and capital from beyond its borders.

At the same time, the Committee wished to preserve the criterion present in the existing rules for corporations: the need for an agricultural purpose in the case of unlimited purchases of farm land by corporations. In the Committee's recommendations, all Canadian corporations may buy land without prior approval of the Farm Land Security Board so long as it is for agricultural or agri-business purposes.

Its recommendations are meant to preserve the existing barriers to the removal of land from agricultural use by corporations, while making Saskatchewan as obvious a target for agricultural investment as its neighbours.

While some witnesses expressed anxieties about absentee landlords, others argued that regardless of ownership, farms located in Saskatchewan were likely to involve Saskatchewan residents as employees and suppliers, with the attendant spin-off benefits for Saskatchewan businesses and communities. Furthermore, a change in domicile of the land's owner would not be a strong influence one way or the other in the many-factored and nearly universal pattern of growing farm sizes and fewer farms.

In its recommendations, the Committee borrows its distinctions between Canadian and foreign corporations from sections 2 and 3 of Alberta's Foreign Land Ownership Regulation, which is set out in Appendix 3.

The Standing Committee on Agriculture recommends:

1. That Canadian citizens or permanent residents of Canada within the meaning of the Immigration Act (Canada) be allowed to own Saskatchewan farm land.

2. That Canadian corporations be permitted to own Saskatchewan farm land for agricultural or agrivalue purposes. "Canadian corporation" is to be defined as a corporation which is not a "foreign controlled corporation" as defined in sections 2 and 3 of Alberta Regulation 160/79 (Foreign Ownership of Land Regulations)

The Committee heard convincing evidence that at present the most likely source of fresh agricultural population and outside capital is Europe, and so has decided to recommend a substantial increase in the amount of farm land a person who is not a Canadian citizen or permanent resident may purchase without seeking a Board exemption – provided that the purchase is for agricultural or agri-business purposes. This embodies in legislation some of the Board's present criteria for granting exemptions to non-Canadians, while giving up the timetable for immigration that the Board also imposes under its current practice.

In removing, here and in the first two recommendations, some of the circumstances in which the Board can exercise its discretion, the Committee was mindful of the fact that the Board at present grants an overwhelming majority of the exemptions for which prospective purchasers of farm land apply.

The Committee recommends applying to non-Canadian corporations the 10-acre limit that now applies to unrestricted purchase of farm land by non-Saskatchewan corporations. It further recommends that the legislation set out the sort of submissions that must be made to the Farm Land Security Board by non-Canadian corporations seeking an exemption from the 10-acre limit.

The Standing Committee on Agriculture recommends:

3. That persons who are not Canadian citizens or permanent residents of Canada within the meaning of the Immigration Act (Canada) be permitted to own up to 320 acres of Saskatchewan farm land for agricultural or agrivalue purposes. Such persons may apply to the Board for an exemption that would allow them to own more than 320 acres of Saskatchewan farm land for agricultural or agrivalue purposes.

4. That foreign corporations be allowed to own up to 10 acres of Saskatchewan farm land. A foreign corporation wanting to purchase more than 10 acres of Saskatchewan farm land for agricultural or agrivalue purposes may apply for an exemption from the Board and shall submit with its application an economic development plan, a job creation strategy, an environmental stewardship plan, and a social impact assessment. "Foreign corporation" is to be defined as is "foreign controlled corporation" in sections 2 and 3 of Alberta Regulation 160/79 (Foreign Ownership of Land Regulations)

Finally, the Committee obtained legal opinions which convinced it that before making changes to the present farm land ownership provisions in *The Saskatchewan Farm Security Act*, the Government should consider any implications the changes might have with regard to Canada's and Saskatchewan's obligations under NAFTA.

The Standing Committee on Agriculture recommends:

5. That before amending the farm land ownership provisions of the Act, the Government satisfy itself as to the possible effect of the proposed amendments on the status of the Reservations protecting Saskatchewan's farm legislation vis-à-vis NAFTA.

CONCLUSION

In making its recommendations, the Committee remains aware that the problems and opportunities facing Saskatchewan agriculture have to be dealt with by a combination of government and private initiative that extends far beyond the Committee's present mandate. Issues concerning rural population and communities, and the need for investment, can be addressed only in small part by the amendments to Saskatchewan farm land ownership rules. Nevertheless, the Committee is encouraged to hope that its recommendations will play a role.

APPENDIX 1 – LIST OF PRESENTATIONS MADE TO THE COMMITTEE

Wednesday, May 15, 2002

Canadian Federation of Independent Business
Saskatchewan Association of Rural Municipalities
Joe Saxinger

Thursday, May 16, 2002

National Farmers Union
Paul Gaucher

Wednesday, May 22, 2002

Prairie Centre Policy Institute
Plains Agricultural Services
Saskatchewan Real Estate Association
Pro West Rally Group
Western Canadian Wheat Growers Association
Lane Realty Corporation
Ken Ziegler
Ross Pollock
Saskatchewan Stock Growers Association
ACRE – Action Committee on the Rural Economy
Saskatchewan Cattle Feeders Association

Thursday, May 23, 2002

Ducks Unlimited Canada
Prairie Alliance for the Future
Lon Borgerson & Val Drummond
Meacham Hills Forage Club
Saskatchewan Young Farmers' Forum
National Farmers Union
Dr. Hartley Furtan & Dr. Richard Gray
Farm Land Security Board

APPENDIX 2 – LIST OF DOCUMENTS RECEIVED BY THE COMMITTEE

AGC 1/24–AGC 20/24 – These numbers were used for Committee deliberations on other issues.

AGC 21/24 Colby Shawn Gallagher: Written submission dated April 30, 2002.

AGC 22/24 Al Gaetz: Written submission dated May 4, 2002.

AGC 23/24 Rural Municipality of Estevan No. 5: Written submission dated May 3, 2002.

AGC 24/24 Rural Municipality of Emerald No. 277: Written submission dated May 9, 2002.

AGC 25/24 J. Porter Land Ltd.: Written submission dated May 6, 2002.

AGC 26/24 Rural Municipality of Lost River No. 313: Written submission dated May 8, 2002.

AGC 27/24 Rural Municipality of Canwood No. 494: Written submission dated May 8, 2002.

AGC 28/24 Lyle Straker: Written submission dated May 6, 2002.

AGC 29/24 Researcher to the Committee: Memorandum entitled "Hearings on the farm land ownerships provisions in Part VI of the *Saskatchewan Farm Security Act*" dated May 14, 2002.

AGC 30/24 Canadian Federation of Independent Business: Written submission dated May 15, 2002.

AGC 31/24 Researcher to the Committee: Memorandum entitled "Newly-published prairie farm data from the Statistics Canada 2002 Census of Agriculture" dated May 15, 2002..

AGC 32/24 Pamela Nykolaishen, Mayor, Town of Kamsack: Written submission dated May 15, 2002.

AGC 33/24 Farm Land Security Board: Written submission entitled "Farm Ownership".

AGC 34/24 National Farmers Union: Written submission dated May 16, 2002.

AGC 35/24 Paul and Lisa Gaucher & Adrian Arguin: Written submission entitled "Presentation on Saskatchewan Land Ownership".

AGC 36/24 Paul and Lisa Gaucher: Written submission dated May 16, 2002.

AGC 37/24 C. B. Forbes: Written submission.

AGC 38/24 Peggy Durant: Written submission.

AGC 39/24 Morris Prescesky: Written submission dated May 16, 2002.

AGC 40/24 Joyce Neufeld: Written submission dated May 16, 2002.

AGC 41/24 Murray Strain: Written submission dated May 17, 2002.

AGC 42/24 Saskatchewan Pheasants Forever: Written submission dated May 17, 2002.

AGC 43/24 Leo Kurtenbach: Written submission dated May 17, 2002.

AGC 44/24 Walter & Anne Nisbet: Written submission dated May 18, 2002.

AGC 45/24 Robert Nisbet: Written submission dated May 21, 2002.

AGC 46/24 Russell Fersch: Written submission.

AGC 47/24 Nature Conservancy of Canada, Saskatchewan Region: Written submission dated May 16, 2002.

AGC 48/24 Saskatchewan Agrivision Corporation Inc.: Written submission dated May 17, 2002.

AGC 49/24 John Cooper: Written submission.

AGC 50/24 Larry & Trudy Blenkin: Written submission.

AGC 51/24 Joel A. Hesje, Lawyer, McKercher, McKercher & Whitmore: Written submission dated May 21, 2002.

AGC 52/24 L. O. Jorgenson: Written submission.

AGC 53/24 Lorne G. Cholin: Written submission dated May 20, 2002.

AGC 54/24 Town of Shaunavon: Written submission dated May 22, 2002.

AGC 55/24 National Farmers Union: Written submission from Stewart Wells, President, dated May 23, 2002.

AGC 56/24 Earl Conacher: Written submission dated May 22, 2002.

AGC 57/24 Muriel Conacher: Written submission dated May 22, 2002.

AGC 58/24 Jim Hawrishok: Written submission dated May 22, 2002.

AGC 59/24 Rural Municipality of Weyburn No. 67: Written submission dated May 22, 2002.

AGC 60/24 Prairie Centre Policy Institute: Written submission dated May 22, 2002.

AGC 61/24 Plains Agricultural Services Ltd.: Written submission dated May 22, 2002.

AGC 62/24 Saskatchewan Real Estate Association: Written submission dated May 2002.

AGC 63/24 Pro West Rally Group: Written submission dated May 22, 2002.

AGC 64/24 Western Canadian Wheat Growers Association: Written submission dated May 22, 2002.

AGC 65/24 Lane Realty Corporation: Written submission dated May 22, 2002.

AGC 66/24 Researcher to the Committee: Memorandum entitled "FCC figures for change in Saskatchewan farm land prices" dated May 22, 2002.

AGC 67/24 Ken Ziegler: Written submission.

AGC 68/24 Ross Pollock: Written submission dated May 22, 2002.

AGC 69/24 Saskatchewan Stock Growers Association: Written submission dated May 22, 2002.

AGC 70/24 Action Committee on the Rural Economy: Written submission entitled "Recommendation – Farm Ownership".

AGC 71/24 Saskatchewan Cattle Feeders Association: Written submission dated May 23, 2002.

AGC 72/24 Saskatoon and District Chamber of Commerce: Written submission dated May 6, 2002.

AGC 73/24 Sheldon F. Cooper: Written submission.

AGC 74/24 R. Mark Brigham: Written submission dated May 23, 2002.

AGC 75/24 John R. Messer: Written submission dated May 23, 2002.

AGC 76/24 Agricultural Producers Association of Saskatchewan: Written submission dated May 23, 2002.

AGC 77/24 Larry Marshall: Written submission.

AGC 78/24 Gregg Sheppard: Written submission.

AGC 79/24 Darwin Lackey: Written submission.

AGC 80/24 Dewar Family Farms Ltd.: Written submission dated May 23, 2002.

AGC 81/24 Wayne Hovdebo: Written submission dated May 22, 2002.

AGC 82/24 Larry Gaucher: Written submission dated May 22, 2002.

AGC 83/24 Louis Gaucher: Written submission.

AGC 84/24 Kevin Beach: Written submission dated May 23, 2002.

AGC 85/24 Lorraine Arguin: Written submission dated May 23, 2002.

AGC 86/24 Saskatchewan Canola Growers Association: Written submission dated May 15, 2002.

AGC 87/24 Cindy & Randy Baumung: Written submission dated May 22, 2002.

AGC 88/24 Danny Rempel: Written submission dated May 23, 2002.

AGC 89/24 Shawn Grice: Written submission dated May 23, 2002.

AGC 90/24 Paul Gaucher: Written submission entitled "Follow-up report regarding farm land ownership legislation" dated May 23, 2002.

AGC 91/24 David Orchard: Written submission dated May 21, 2002.

AGC 92/24 Ducks Unlimited Canada: Written submission dated May 23, 2002.

AGC 93/24 The Prairie Alliance for the Future: Written submission dated May 22, 2002.

AGC 94/24 Lon Borgerson: Written submission dated May 23, 2002.

AGC 95/24 Meacham Hills Forage Club: Written submission dated May 23, 2002.

AGC 96/24 Saskatchewan Young Farmers' Forum: Written submission.

AGC 97/24 National Farmers Union, Region 6: Written submission dated May 23, 2002.

AGC 98/24 Researcher to the Committee: Memorandum entitled "Reservations on land ownership attached to international agreements" dated May 22, 2002.

AGC 99/24 Dr. Hartley Furtan: Written submission entitled "Effects of Government restrictions on Land Ownership: The Saskatchewan Case".

AGC 100/24 Farm Land Security Board: Written submission.

APPENDIX 3 – DEFINITIONS FROM SECTIONS 2 AND 3 OF ALBERTA REGULATION 160/79 (FOREIGN OWNERSHIP OF LAND REGULATIONS)

2. In these Regulations . . .
"foreign controlled corporation" means

(a) a corporation incorporated elsewhere than in Canada,
(b) in the case of a public corporation whose shares are not traded on a stock exchange in Canada or a private corporation, a corporation

(i) the percentage of foreign ownership of which calculated under section 13 is 50% or greater, or
(ii) that is the last in a succession of corporations the outstanding shares of each of which are more than 50% owned by its predecessor in the succession of corporations if the outstanding shares of any of the corporations in the succession are more than 50% held by ineligible persons or by any other corporation the percentage of foreign ownership of which calculated under section 13 is 50% or greater,

or
(c) in the case of a public corporation whose shares are traded on a stock exchange in Canada, a corporation

(i) less than 2/3 of whose directors are Canadian citizens or permanent residents, or
(ii) in which 50% or more of its outstanding shares are held in blocks of 5% or more by ineligible persons or corporations the percentage of foreign ownership of which calculated under section 13 is 50% or greater.

3. A corporation that is a foreign controlled corporation is, for the purposes of the Act and these Regulations, effectively controlled by persons who are not Canadian citizens.

APPENDIX 4 – RESERVATIONS

Standing Committee on Agriculture – Report on Farmland Ownership

3rd Session of the 24th Legislature

Legislative Assembly of Saskatchewan

Reservations

By Ms. Pat Atkinson, MLA Saskatoon Nutana, Mr. David Forbes, MLA Saskatoon Idylwyld and Ms.Carolyn Jones, MLA Saskatoon Meewasin

Recommendations:

Recommendation 1 (agree - subject to recommendation #5)
That Canadian citizens or permanent residents of Canada within the meaning of the Immigration Act (Canada) be allowed to own Saskatchewan farmland.

Recommendation 2 (disagree)
That Canadian corporations be permitted to own Saskatchewan farmland for agricultural or agrivalue purposes. "Canadian Corporation" is to be defined as a corporation which is not a "foreign controlled corporation" as defined in sections 2 and 3 of Alberta Regulation 160/79 (Foreign Ownership of Land Regulations.

Recommendation 3 (disagree)
That persons who are not Canadian citizens or permanent residents of Canada within the meaning of the Immigration Act (Canada) be permitted to own up to 320 acres of Saskatchewan farmland for agricultural or agrivalue purposes. Such persons may apply to the Board for an exemption that would allow them to own more than 320 acres of Saskatchewan farmland for agricultural or agrivalue purposes.

Recommendation 4 (disagree)
That foreign corporations be allowed to own up to 10 acres of Saskatchewan farmland. A foreign corporation wanting to purchase more than 10 acres of Saskatchewan farmland for agricultural or agrivalue purposes may apply for an exemption from the Board and shall submit with its application an economic development plan, a job creation strategy, an environmental stewardship plan and a social impact assessment. "Foreign Corporation" is to be defined as is "foreign controlled corporation" as defined in sections 2 and 3 of Alberta Regulation 160/79 (Foreign Ownership of Land Regulations.

Recommendation 5 (agree)
That before amending the farmland ownership provisions of the Act, the government satisfy itself as to the possible effect of the proposed amendments on the status of the Reservations protecting Saskatchewan's farm legislation vis-à-vis NAFTA.

Introduction

The Standing Committee on Agriculture was given the task of reviewing the agricultural land

holding provisions as set out in *The Saskatchewan Farm Security Act.* As New Democrat members, we listened carefully to all presenters who appeared before or provided written submissions to the Committee. We see our work as having significant historical importance given that *The Saskatchewan Farm Security Act* has not been reviewed by a Standing Committee of the Legislature since the early 1970's. We realize after a technical briefing from the Department of Justice to the Committee, that any amendments that loosen restrictions on Saskatchewan farmland ownership can never be reversed because of the North America Free Trade Agreement.

Observations

The hearing process by the Standing Committee on Agriculture was very worthwhile. It was a good opportunity to determine public sentiment regarding farmland ownership in Saskatchewan. Clearly there is no consensus on this topic. Of all of the recommendations, recommendation #1, extending farmland ownership to Canadian citizens or residents, received the most, although not unanimous, support. There was little support for extending farmland ownership provisions to Canadian corporations, foreign citizens or foreign corporations.

We believe that permitting ownership of Saskatchewan farmland by Canadian corporations, foreign citizens or foreign corporations is a major shift in public policy, is irreversible, and therefore requires a much more extensive public consultation process than four days of Committee hearings. We have grave concerns about extending ownership of Saskatchewan farmland beyond Canadian citizens/landed immigrants without first establishing a strongly articulated public policy that outlines the objectives we wish to achieve through farmland ownership. These objectives should be developed by engaging Saskatchewan citizens in further discussions. Without guiding principles upon which to base our recommendations, we cannot in good faith support recommendation #2 (non-Sask/Canadian corporations), #3 (foreign citizen-non resident ownership) and #4 (multi national/foreign corporations). We firmly believe public policy should speak to the role of farmland ownership in developing a vibrant and sustainable rural Saskatchewan.

We believe that good public policy could address several critical issues that many farmers, rural people, farm and rural groups shared with us regarding agricultural land ownership. There are deep-rooted concerns about the following:

- Lack of residency requirements
- Absentee landlords
- Corporate farms
- Impact on long term crown leases
- Perception that land values will increase
- NAFTA (North American Free Trade Agreement)

We believe that the recommendations #2, #3 & #4 will exacerbate these concerns.

We appreciate the Saskatchewan Farmland Security Board's wide-ranging insights and their suggestion that existing policies that are currently used to adjudicate applications for exemptions be incorporated into *The Farmland Security Act* to make the legislation more inviting to people interested in purchasing farmland and moving to Saskatchewan. We also believe the government should embark upon an ambitious educational and recruitment campaign aimed at encouraging immigration to rural Saskatchewan. There is merit in drafting a new user friendly Act.

Presenters, both individuals, farm groups and rural advocacy groups such as SARM made a convincing case that the timing of our hearings were not conducive for rural people to participate fully in the discussion. We became aware that many rural groups and farmers did not participate for a variety of reasons (timing, short notice, lack of information, distance to Regina, etc.) We AGREE. The diversity of opinion, claims of fact, and lack of useful research should act as a warning for the Members of the Legislature that we should proceed with caution.

Conclusion

The Saskatchewan Farm Security Act is an important piece of social and economic legislation that is designed to support the well being of rural Saskatchewan. Mr. Neal Hardy, president of SARM, which represents all the agricultural landholders in the province, told the Standing Committee that the SARM membership needs more information in order to make an "informed decision". We believe this is true of a large number of rural residents. Because of the magnitude and potential long reaching effects of this issue, the provincial government must ensure that all voices are fully heard and that any farmland ownership legislation must aim to serve our province and our rural communities well.